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Docket No. MCP-281

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : BUNICK, et al.
Serial No. : 09/896,052
Filed : 06/29/2001
Title : BRITTLE COATING, SOFT CORE DOSAGE FORM

Art Unit : 1615
Examiner : Oh, Simon J.

I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Mail-Stop Appeal Brief-Patents, Commissioner for Patents,
P.O. Box 1450, Alexandria, VA 22313-1450 on

December 7, 2003

(Date of Deposit)

Timothy E. Tracy

(Name of applicant, assignee, or Registered Representative)



(Signature)

December 7, 2003

(Date of Signature)

Mail-Stop Appeal Brief -Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

In accordance with the provisions of 37 CFR § 41.31, a timely Notice of Appeal
was filed in the captioned application on October 20, 2004. Accordingly, this Appeal
Brief is timely filed, with an executed Certificate of Mailing on or before December 20,
2004.

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temperature.” Such preparation was, according to Lee, the reason why Lee’s chewable tablet had “excellent stability.”


Contrary to Lee’s room temperature method, Friend heats a mixture to 80°C until all of the polymer is dissolved, adds the drug to the polymer mixture, and stirs at 450 rpm for 1 hour. (Friend, col. 11, Example 1.) The resulting mixture was then allowed to cool with stirring at 450 rpm at about 0.5°C/min for 1 hour to a final temperature of about 50°C. (Id.) Friend further cautions that “care must be taken not to heat to a temperature which could degrade the drug.” (Col. 5, Ins. 31-32.)

It is not seen where one of ordinary skill in the art would be motivated to further taste mask a drug by applying heat in the process of making the final product where Lee’s invention specifically states that the chewable tablet formulation has “excellent stability” because it is produced at room temperature. It appears that Lee teaches away from Friend. For this reason, it is not believed the cited documents are properly combinable and the rejection should, therefore, be withdrawn.

Accordingly, for the reasons set forth above, withdrawal of the rejections, and allowance of the claims is respectfully solicited

Respectfully submitted,

By:


Timothy E. Tracy
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(732) 524-6586
Dated: December 7, 2004



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DOCKET NO. MCP-281

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: BUNICH, et al.

Serial No.: 09/896,052

Art Unit: 1615

Filed : June 29, 2001

Examiner: Oh, Simon J.

For : BRITTLE COATING, SOFT CORE DOSAGE FORM

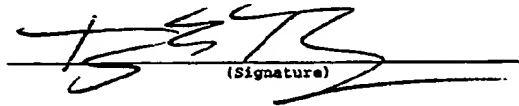
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

October 18, 2004

(Date of Deposit)

Timothy E. Tracy

(Name of applicant, assignee, or Registered Representative)


(Signature)

October 18, 2004

(Date of Signature)

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450


PETITION FOR EXTENSION OF TIME
AND AUTHORIZATION TO CHARGE
DEPOSIT ACCOUNT THEREFOR

Dear Sir:

Applicants petition the Commissioner of Patents and Trademarks to extend the time to file a Notice of Appeal for one(1) month from October 1, 2004 to November 1, 2004. The mentioned Notice of Appeal is being filed concurrently herewith.

Please charge Deposit Account No. 10-0750/MCP-281/TET in the name of Johnson & Johnson for the cost of filing this Petition. Three copies of this Petition are enclosed.

Respectfully submitted,


Timothy E. Tracy
Reg. No. 39,401
Attorney for Applicant(s)

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02 FC:1251 110.00 DA

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DATE: October 18, 2004